

§ 990.100

990.290 Compliance with asset management requirements.

Subpart I—Operating Subsidy for Properties Managed by Resident Management Corporations (RMCs)

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AUTHORITY: 42 U.S.C. 1437g; 42 U.S.C. 3535(d).

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Subpart A—Purpose, Applicability, Formula, and Definitions

§ 990.100 Purpose.

This part implements section 9(f) of the United States Housing Act of 1937 (1937 Act), (42 U.S.C. 1437g). Section 9(f) establishes an Operating Fund for the purposes of making assistance available to public housing agencies (PHAs) for the operation and management of public housing. In the case of unsubsidized housing, the total expenses of operating rental housing should be covered by the operating income, which primarily consists of rental income and, to some degree, investment and non-rental income. In the case of public housing, the Operating Fund provides operating subsidy to assist PHAs to serve low, very low, and extremely low-income families. This part describes the policies and procedures for Operating Fund formula calculations and management under the Operating Fund Program.

§ 990.105 Applicability.

(a) *Applicability of this part.* (1) With the exception of subpart I of this part, this part is applicable to all PHA rental units under an Annual Contributions Contract (ACC). This includes PHAs that have not received operating subsidy previously, but are eligible for op-

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erating subsidy under the Operating Fund Formula.

(2) This part is applicable to all rental units managed by a resident management corporation (RMC), including a direct-funded RMC.

(b) *Inapplicability of this part.* (1) This part is not applicable to Indian Housing, section 5(h) and section 32 homeownership projects, the Housing Choice Voucher Program, the section 23 Leased Housing Program, or the section 8 Housing Assistance Payments Programs.

(2) With the exception of subpart J of this part, this part is not applicable to the Mutual Help Program or the Turnkey III Homeownership Opportunity Program.

§ 990.110 Operating fund formula.

(a) *General formula.* (1) The amount of annual contributions (operating subsidy) each PHA is eligible to receive under this part shall be determined by a formula.

(2) In general, operating subsidy shall be the difference between formula expense and formula income. If a PHA's formula expense is greater than its formula income, then the PHA is eligible for an operating subsidy.

(3) Formula expense is an estimate of a PHA's operating expense and is determined by the following three components: Project Expense Level (PEL), Utility Expense Level (UEL), and other formula expenses (add-ons). Formula expense and its three components are further described in subpart C of this part. Formula income is an estimate for a PHA's non-operating subsidy revenue and is further described in subpart D of this part.

(4) Certain portions of the operating fund formula (*e.g.*, PEL) are calculated in terms of per unit per month (PUM) amounts and are converted into whole dollars by multiplying the PUM amount by the number of eligible unit months (EUMs). EUMs are further described in subpart B of this part.

(b) *Specific formula.* (1) A PHA's formula amount shall be the sum of the three formula expense components calculated as follows: {(PEL multiplied by EUM) plus (UEL multiplied by EUM) plus add-ons} minus (formula income multiplied by EUM).

(2) A PHA whose formula amount is equal to or less than zero is still eligible to receive operating subsidy equal to its most recent actual audit cost for its Operating Fund Program.

(3) Operating subsidy payments will be limited to the availability of funds as described in § 990.210(c).

(c) *Non-codified formula elements.* This part defines the major components of the Operating Fund Formula and describes the relationships of these various components. However, this part does not codify certain secondary elements that will be used in the revised Operating Fund Formula. HUD will more appropriately provide this information in non-codified guidance, such as a Handbook, FEDERAL REGISTER notice, or other non-regulatory means that HUD determines appropriate.

§ 990.115 Definitions.

The following definitions apply to the Operating Fund program:

1937 Act means the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*).

Annual contributions contract (ACC) is a contract prescribed by HUD for loans and contributions, which may be in the form of operating subsidy, whereby HUD agrees to provide financial assistance and the PHA agrees to comply with HUD requirements for the development and operation of its public housing projects.

Asset management is a management model that emphasizes project-based management, as well as long-term and strategic planning.

Current consumption level is the amount of each utility consumed at a project during the 12-month period that ended the June 30th prior to the beginning of the applicable funding period.

Eligible unit months (EUM) are the actual number of PHA units in eligible categories expressed in months for a specified time frame and for which a PHA receives operating subsidy.

Formula amount is the amount of operating subsidy a PHA is eligible to receive, expressed in whole dollars, as determined by the Operating Fund Formula.

Formula expense is an estimate of a PHA's operating expense used in the Operating Fund Formula.

Formula income is an estimate of a PHA's non-operating subsidy revenue used in the Operating Fund Formula.

Funding period is the calendar year for which HUD will distribute operating subsidy according to the Operating Fund Formula.

Operating Fund is the account/program authorized by section 9 of the 1937 Act for making operating subsidy available to PHAs for the operation and management of public housing.

Operating Fund Formula (or Formula) means the data and calculations used under this part to determine a PHA's amount of operating subsidy for a given period.

Operating subsidy is the amount of annual contributions for operations a PHA receives each funding period under section 9 of the 1937 Act as determined by the Operating Fund Formula in this part.

Other operating costs (add-ons) means PHA expenses that are recognized as formula expenses but are not included either in the project expense level or in the utility expense level.

Payable consumption level is the amount for all utilities consumed at a project that the Formula recognizes in the computation of a PHA's utility expense level at that project.

Per unit per month (PUM) describes a dollar amount on a monthly basis per unit, such as Project Expense Level, Utility Expense Level, and formula income.

Project means each PHA project under an ACC to which the Operating Fund Formula is applicable. However, for purposes of asset management, as described in subpart H of this part, projects may be as identified under the ACC or may be a reasonable grouping of projects or portions of a project or projects under the ACC.

Project-based management is the provision of property management services that is tailored to the unique needs of each property, given the resources available to that property.

Project expense level (PEL) is the amount of estimated expenses for each project (excluding utilities and add-ons) expressed as a PUM cost.